



United States
Department of
Agriculture

Food and
Nutrition
Service

Mountain
Plains
Region

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Denver, CO
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Reply to
Attn of:

CACFP-697

Subject:

Assessing Interest in the Child and Adult Care Food Program (CACFP)
Questions and Answers (Q & As)

To:

STATE AGENCY DIRECTORS - Colorado DPHE, Iowa, Kansas,
(Special Nutrition Programs) Missouri DHSS, Montana DPHH,
Nebraska, North Dakota, South Dakota,
Utah and Wyoming

As you know, CACFP Regulations now require State Agencies (SAs) to assess interest, beginning with the initial demand letter, against sub-grantee debts involving repayment agreements with the state. This new requirement mandates a new process for states and FNS, and has resulted in a number of questions raised concerning how it is to be implemented. Over the past few weeks, a number of questions have been sent to both our Financial Management (FMD) and the Child Nutrition Divisions (CND) in Headquarters concerning the CACFP requirement that a State agency assess interest beginning with the State agency's initial demand for an institution's repayment of an overclaim.

Some of these questions involve only Program policy, while others concern the actual accounting procedures that states and regional offices will need to follow to report interest recoveries. The Q & As are attached. We have separated the questions into two sets – those answered by FMD and those answered by CND.

Some of the answers may differ from what you have been told by our staff in the past. Prior to the issuance of these Q & As, we answered questions based on what we believed would be the appropriate answer. These Q & As supercede other information you may have received that presents a conflict in information.

Please share these Q & As with your appropriate financial management staff.

State Agency Directors

If you have any questions, please contact a member of the CACFP staff at 303-844-0359. Financial management staff should direct their questions to Dale Zimmerman at 303-844-0315.

Mary Luelsen

DARLENE SANCHEZ

Regional Director

for
Special Nutrition Programs

Attachment

Child and Adult Care Food Program (CACFP)
Questions and Answers (Q & As)
Assessing Interest in the CACFP
April 2003

The following questions were answered by the Financial Management Division in Headquarters (HQ).

1. **Q: Why do states have to assess interest against sub-grantee debts in the CACFP?**

A: 7 CFR Part 226.14(a), effective July 29, 2002, states, "The State Agency (SA) may permit institutions to pay overclaims over a period of one or more years. However, the SA must assess interest beginning with the initial demand for remittance." As such, this is a requirement mandated by federal regulations, and is not discretionary.
2. **Q: Does this requirement to assess interest apply to all Special Nutrition programs?**

A: Although we would encourage states to charge interest on a consistent basis for all programs, this specific citation establishes a regulatory requirement only for the CACFP. For other programs, we have historically directed that states follow their own process and state laws when charging interest.
3. **Q: Will states be required to assess interest at one uniform rate? If so, what rate should be used?**

A: Yes, states are required to use the same rate. The appropriate rate to use is the Current Value of Funds Rate (CVFR), which is published by Treasury in the Federal Register. This rate is the default rate for assessing interest on all debts owed to the Federal Government.
4. **Q: What is the current CVFR?**

A: The current rate, effective January 1, 2003 through December 31, 2003, is 2.0%.

5. **Q: Where can states find out what the appropriate interest rate is?**
- A: The rate is published annually by Treasury in the Federal Register, and is available on the Financial Management Service website homepage, using the following link: <http://www.fms.treas.gov>
6. **Q: When does this requirement become effective?**
- A: This requirement was effective as of July 29, 2002.
7. **Q: Which debts are affected by this requirement?**
- A: All CACFP debts established on or after July 29, 2002 that are not repaid in full within 30 days from the date of the initial billing letter. This includes the unpaid balance of a debt under a repayment plan, when the debt was established on or after July 29, 2002. For example, the SA bills a CACFP sponsor for an overclaim of \$100 on September 1, 2003. (The initial billing letter must advise the institution that interest will be assessed on debts not paid in full within 30 days). On October 1, 2003, the state has received no payment or contact from the institution. The state would send a second billing letter (per 226.14(a)) stating that the debt is now delinquent and interest for the month of September has been added to the bill.
8. **Q: Does this affect debts, established before July 29, 2002, already being collected under a repayment plan?**
- A: No. Debts that were already under an agreed upon repayment plan prior to the effective date of the regulation will not be affected. These debts should continue to be collected in accordance with the existing agreement.
9. **Q: What about debts, established before July 29, 2002, that are not under a repayment plan but have not been repaid?**
- A: For debts the SA is still actively trying to collect, e.g. sending billing letters, the SA must issue a new billing letter to the debtor explaining that interest will be assessed on the debt if not paid within 30 days from the date of this new billing letter.
10. **Q: What if a debtor has an existing repayment plan in place, but defaults on payment?**
- A: Unless such a debt is to be written off as uncollectible, the debtor should be rebilled by the SA for the entire unpaid balance and notified that the debt will be charged interest at the current rate, from the date of this billing letter, unless it is paid in full within 30 days. Further, the debtor is

seriously deficient for failure to repay the debt and must receive a notice of serious deficiency. The action required to correct this serious deficiency is payment of the delinquent portion of the repayment plan within 30 days and timely remittance of all future payments due under the repayment plan, plus the interest that will now accrue on the unpaid balance of the debt. If repayment does not occur or the debtor again defaults on the repayment plan, the SA would proceed to issue a notice of intent to terminate.

11. Q: What about written off debts?

A: Debts that are written off as uncollectible are removed from the SA's accounting records. If after doing so, information becomes available to the state that a resumption of collection activity may result in successful collection, the debt may be put back on the SA's books as a new debt. The state would issue a new billing letter advising the debtor that the debt will be charged interest at the current rate, from the date of the billing letter, unless it is paid in full within 30 days.

12. Q: How is interest to be calculated?

A: It should be based on simple (not compound) interest, calculated monthly. The amount of interest assessed each month should be computed using the unpaid balance of the principal.

13. Q: When does interest begin to accrue on a debt?

A: Although interest "accrues" beginning with the date of the original demand letter (Day 1), interest is not actually "charged" or assessed to the debt until Day 31. For example, a debtor is billed on April 1 for \$100. If the bill is paid in full by April 30, no interest would be charged. However, if the debt is not paid by this time, interest of \$0.17 (2.0% of \$100 divided by 12 months) would be assessed on May 1, bringing the total bill now to \$100.17. On June 1, if still unpaid, the total bill would be \$100.34 (two months of interest applied against the original principal - \$0.17 + \$0.17 = \$0.34).

14. Q: How is interest calculated when a debtor has entered into a repayment plan with the SA?

A: Interest should be charged at an annual rate of 2% (CVFR). States should consult their respective finance offices for specific details concerning generally accepted accounting practices for determining interest computations.

15. Q: **Is there a separate account for interest, or is it returned to the Program account?**

A: The full amount of total collections received (principal plus interest) is returned to FNS with amounts identified separately. Amounts must be reported separately since in most cases principal collections are returned to the appropriation account, while interest collections are always returned to Treasury.

16. Q: **When payments are received, how should amounts collected be recorded in states' accounting records?**

A: Payments received should be applied first to interest, then to any remaining principal amount. For example, a sponsor owing \$1,150.00 (original overclaim of \$1,000 plus \$150.00 in charged interest) sends the state a check for \$1,000. The state first applies \$150.00 to the interest owed, and \$850.00 is applied to the principal amount. The sponsor would still owe the state \$150.00 in principal.

17. Q: **What process should states use for sending out billing letters?**

A: States should follow the minimum collection requirements stated in 226.14(a) of the CACFP regulations. Samples of billing letters containing the necessary language were distributed during the training sessions conducted by the Child Nutrition Division last summer.

The following questions were answered by the Child Nutrition Division in HQ.

18. Q: **When must the SA start to assess interest on new debts?**

A: Interest must be assessed on debts established on or after July 29, 2002, the implementation date of the interim regulation.

19. Q: **If the SA and institution agreed to a repayment plan before July 29, 2002, must the SA start assessing interest on the unpaid portion of that repayment plan?**

A: No.

20. **Q: If an institution has not repaid a debt or agreed to a repayment plan and the SA is currently pursuing that debt, should interest be assessed if the debt was established before the effective date of the Interim Rule?**

A: Yes, however, the SA must restart the billing process. This means the SA must issue a new billing letter that conforms to the requirements of the Interim Rule. If the institution was previously provided with the opportunity to appeal the overclaim and the SA prevailed in that appeal or the institution did not exercise its right to appeal, a new right to appeal would not be offered. However, if the institution was not offered appeal rights, the new billing letter would provide the right to appeal the cause of the overclaim, but not the assessment of interest.

21. **Q: As a follow-up to question 20, since failure to repay a debt now requires the SA to initiate termination proceedings, should not the SA propose to terminate and disqualify the institution instead of issuing a new billing letter?**

A: It depends on where the SA is in the demand for repayment process. Question 20 deals with a situation where the SA is still in the process of trying to recover funds, such as three steps (that includes two demand letters) for collection procedures in 226.14(a)(1-3). The SA must initiate the proposed termination and disqualification of the institution for failure to repay a debt, regardless of when the initial billing action occurred in the following circumstances:

- After the SA has completed the three steps and full repayment or a repayment plan does not occur, and
- Before completion of the three steps, the SA determines that completing all three steps would be fruitless.

22. **Q: Since there are a number of technical and policy questions about assessing interest, can we suspend implementation of this provision until after guidance is issued?**

A: No. The assessment of interest on debts was not one specifically exempted from the July 29, 2002, implementation date.

23. **Q: If a SA or family day care home sponsor identifies a provider overclaim during a facility review does the sponsor assess interest on the provider owed debt?**

A. No. The interim rule's debt recovery provisions result from the changes made by the Agriculture Risk Protection Act (ARPA). These changes apply only to institutions. When the SA or sponsor identifies a provider

overclaim during a facility review, the provider's debt would be immediately offset against its pending claim without offering the provider the right to appeal the recovery. Since the offset is immediate, the need to assess interest for an unpaid debt is moot. A sponsor's right to immediately offset pending claims applies to all facilities, i.e., sponsored centers and day care homes.

24. **Q: Can the SA or sponsor charge the facility interest when the recovery of the facility's debt requires offsets to more than one claim or the facility is no longer participating in the CACFP?**

A: No. The requirement to charge interest only applies to institution debt, not to facility debts.

25. **Q: If the SA determines the sponsor's claim editing system is inadequate and has resulted in facility overclaims, does the SA assign the overclaim to the sponsor and assess interest or assign the overclaim to the facilities?**

A: Since the overclaim results from the sponsor's failure to properly administer the program, the SA would assess the overclaim against the sponsor, even though the sponsor would recover the funds from the facilities.

26. **Q: If the provider's overclaim was assessed against the sponsor and interest accrued, can the sponsor recover the interest charges from the providers?**

A: A provider's overclaim should only be assessed against the sponsor when the SA determines the sponsor has failed to act properly. For example, the SA identifies a provider overclaim during a review, but the sponsor refuses to pursue recovery of the overclaim. In this case, the SA would properly assess the overclaim against the sponsor. Any interest that accrues on this debt is the sponsor's responsibility, not the provider's.

27. **Q: Can CACFP funds be used to pay the accrued interest?**

A: No. Nonfederal funds must be used to pay the accrued interest.

28. **Q: Does not the current FM instruction for the CACFP already address interest on pages 94 - 96 (Section IX, D 6 b and 7)?**

A: The interest discussed in this section of the Instruction is interest earned by institutions on Program funds, not interest owed by the institution for unpaid debts.